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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/407,434	09/29/1999	ALOK AGGARWAL	YO999-390	2755
30743	7590	04/20/2004	EXAMINER	
WHITHAM, CURTIS & CHRISTOFFERSON, P.C.			BROWN, TIMOTHY M	
11491 SUNSET HILLS ROAD				
SUITE 340			ART UNIT	PAPER NUMBER
RESTON, VA 20190			1648	

DATE MAILED: 04/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/407,434

Applicant(s)

AGGARWAL ET AL.

Examiner

Tim Brown

Art Unit

1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

This Non-Final Office Action is responsive to Applicants' reply received February 23, 2004.

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim 11 is objected to for misspelling computer in line 3. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is rejected for its recitation of "various sites" in line 14. Because this term is preceded by the "on-line e-commerce site" in line 3, it is unclear whether "various sites" refers to e-commerce sites. Claims 11 and 20 are also rejected for repeating this error.

Claim 1 is also rejected for its recitation of "negotiating by the on-line e-commerce site ***with the customer computer interface***" in lines 16 and 17. This language is indefinite because line 8 recites "negotiating by the customer." Therefore, it is unclear whether the client-side negotiation is conducted by the customer, or the

customer computer interface. Claims 11 and 20 are also rejected for repeating this error.

Claim 1 is also rejected for the recitation of “changing . . . the customer’s static profile . . . said profile thereby being dynamic” in lines 21-24. This language is indefinite since a static profile cannot also be dynamic. Claims 11 and 20 are also rejected for repeating this error. This rejection may be overcome by amending the claims to recite first and second profiles.

Claim 1 is also rejected for its recitation of “capturing.” “Capturing” renders the claim indefinite because it is not clear what action is occurring at the customer computer interface. Claims 11 and 20 are also rejected for repeating this error.

Claim 1 is also rejected for reciting “said e-commerce site profiles.” This limitation lacks antecedent basis since it is preceded by a singular e-commerce site profile. Claims 11 and 20 are also rejected for repeating this error.

Finally, claim 1 is rejected for its recitation of “said customer profiles” in line 29. This language renders the claim indefinite because it is unclear whether “said customer profiles” refers to the collection of customer profiles maintained by the e-commerce site, or just the static customer profiles of lines 3 and 4. Claims 11 and 20 are also rejected for repeating this error.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claims 1-3, 5, 11-13, 15 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tavor et al. (US 6,553,347 B1) ("Tavor") in view of Katz et al. (6,055,513) ("Katz") and Franklin et al. (US 6,125,352) ("Franklin").**

Regarding claims 1, 11 and 20,

Tavor teaches a computer assisted on-line negotiation method comprising the steps of:

assigning by the on-line e-commerce site a static customer profile to a new customer visiting the on-line e-commerce site, the initial assignment to a profile being based on whatever information is available about the customer at the time of assignment (col. 4, lines 41-45; col. 5, lines 4-5; col. 7, lines 50-51; col. 10, lines 4-5; col. 11, lines 35-38; and col. 12, lines 13-16);

capturing at a customer computer interface the on-line e-commerce site's actions (col. 4, lines 41-45; col. 5, lines 17-18);

negotiating by the on-line e-commerce site with the customer based on a dynamically changing profile of the customer (col. 4, lines 25-27; col. 5, lines 4-5; col. 7, lines 50-53; and col. 11, lines 35-43);

formulating at said customer computer interface a profile of the on-line e-commerce site (Id.);

negotiating by the customer via said customer computer interface with the on-line e-commerce site based on a dynamically changing profile of the site (Id.);

changing by the on-line e-commerce site the customer's dynamically changing profile during negotiations based on a observed behavior of the customer wherein said

customer profiles are comprised of information useable to the advantage of the e-commerce site in said on-line negotiation with customers (Id.);

changing by the customer computer interface the on-line e-commerce site's static profile during negotiations based on an observed behavior of the on-line e-commerce site, said static profile thereby being dynamic during said negotiations (Id.); and

wherein said customer profiles are comprised of computer stored information usable to the advantage of the e-commerce site in said online negotiation with said customers (Id.).

Tavor does not expressly teach "generating off-line by an on-line e-commerce site static customer profiles based on past history that the site has about various customers, including multiple value attributes." However, Katz teaches a computerized purchasing system wherein a central server offers product upsales to a purchaser based on the purchaser's background information (col. 24, lines 30-49). Tavor offers a gift to users as sales incentive during negotiations (col. 13, lines 65-67). Thus, modifying Tavor with Katz would permit Tavor to offer the user a gift that is directly related to the user's interests. Therefore, at the time of Applicants' invention, it would have been obvious to modify Tavor to include "generating off-line by an on-line e-commerce site static customer profiles based on past history that the site has about various customers, including multiple value attributes" as taught by Katz.

Tavor and Katz do not expressly teach 1) formulating a profile of the on-line e-commerce site "based on past history information that the customer computer interface has about various sites, including multiple value attributes, and updating the profile

based on said captured actions,” and 2) “said e-commerce site profiles are comprised of computer stored information usable to the advantage of the customer in said on-line negotiation.”

However, Franklin teaches an e-commerce system “which allow[s] a consumer to browse product information advertised over the WWW, gather information about products and merchants, selectively store the product and merchant information in a client side database, compare product information from different merchants, and purchase products sold over the Internet.” (Col. 7, lines 37-41). At the time of Applicant’s invention, it would have been obvious to one of ordinary skill in the art, to modify Tavor and Katz to include the teachings of Franklin. This combination would allow users to collect price information thereby allowing the customer to negotiate a price that is below market price.

Regarding claims 2, 3, 12 and 13, Tavor, Katz and Franklin teach all the limitations discussed above. Tavor and Franklin do not expressly teach:

“the step of updating by the on-line site past history information based on negotiations with the customer, said customer using said computer interface in the negotiations, wherein the attributes included in the past history information include non-quantitative information.”

However, Franklin teaches an online system “which allow[s] a consumer to browse product information advertised over the WWW, gather information about products and merchants, selectively store the product and merchant information in a client side database, compare product information from different merchants, and purchase products sold over the Internet.” (Col. 7, lines 37-41). Franklin further

teaches that the merchant information may include product information (col. 16, line 28). At the time of Applicants' invention, it would have been obvious to modify Tavor and Katz to include the teachings of Franklin. This combination would provide a means for refreshing product information based on the price obtained from the negotiating merchant.

Regarding claims 5 and 15, Tavor, Katz and Franklin teach all the limitations discussed under claim 1 above. Tavor and Franklin do not specifically teach a computer assisted on-line negotiation method further comprising the steps of: capturing by the on-line e-commerce site direct interactions by the customer with the on-line e-commerce site, said direct interactions including the customer's "click-through stream" and other direct interaction with the on-line e-commerce site, and analyzing said direct interactions with the on-line e-commerce site to update the customer's dynamic profile. However, Katz teaches offering a user an upsell item based on the user's prior contact with other e-commerce sites (col. 24, lines 30-35). At the time of Applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Tavor and Franklin to include the previously mentioned limitation as taught by the text cited in Katz. This combination would provide a means for providing successful negotiations by permitting a vendor to improve his offer by including an item that is known to be of interest to the user.

**Claims 8-10 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tavor in view of Katz, Franklin and Taupiac (Taupiac, K.**



**“Manage purchasing with the Internet” International Trade Forum (Jan-March 1999) Vol. 1, No. 24).**

Regarding claims 8 and 17, Tavor, Katz and Franklin teach all the limitations discussed under claims 1, 11 and 20. Tavor, Katz and Franklin do not expressly teach “storing at said customer computer interface a formulated profile of the on-line e-commerce site in a database of on-line e-commerce site profiles; and accessing the on-line e-commerce site using said customer computer interface to begin negotiations with the on-line e-commerce site.” However, Taupiac teaches a method for collecting merchant information from various merchant for use in negotiations, wherein users are permitted to “bookmark” sites of interest (p. 5). At the time of Applicants’ invention, it would have been obvious to one of ordinary skill in the art, to modify Tavor, Katz and Franklin to include the teachings of Taupiac as this combination would provide a means for quickly accessing a merchant of interest.

Regarding claims 9 and 18, Tavor teaches the step of dynamically modifying by the customer the on-line e-commerce site's profile during negotiations with the on-line e-commerce site based on actions by the on-line e-commerce site (col. 4, lines 41-45; col. 5, lines 4-5; col. 7, lines 50-51; col. 10, lines 4-5; col. 11, lines 35-38; and col. 12, lines 13-16)

Regarding claims 10 and 19, Tavor teaches wherein actions by the on-line e-commerce site on which the site's profile is dynamically modified include offering of terms, said terms including prices of items for sale, packaged deals and bonuses (col. 13, lines 65-67).

**Claims 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tavor in view of Katz, Franklin and Gerace (US 5,991,735).**

Regarding claims 4 and 14, Tavor, Katz and Franklin teach all the limitations discussed under claims 3 and 13. Tavor, Katz and Franklin do not specifically teach a computer assisted on-line negotiation method wherein the non-quantitative information includes season and time of day. However, Gerace teaches creating a customer profile wherein the profile comprises the date and time when the customer accessed a particular website (col. 7, lines 4-47). At the time of the applicant's invention, it would have been obvious to one of ordinary skill in the art, to modify Tavor, Katz and Franklin to include the teachings of Gerace. Including the step of updating past negotiation history information with non-quantitative information including season and time of day would provide the e-commerce website with greater bargaining power because the e-commerce site would have a means for estimating a customer's needs at a particular time.

**Claims 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tavor in view of Katz, Franklin and Dedrick (US 5,717,923).**

Tavor, Katz and Franklin teach all the limitations discussed under claim 5 above. Tavor, Katz and Franklin do not teach a computer assisted on-line negotiation method wherein the other direct interaction includes the customer's voice and physical actions. However, Dedrick teaches an input means for modifying a customer's profile using a voice input means (col. 5, lines 16-33). At the time of the applicant's invention, it would have been obvious to one having ordinary skill in the art, to modify Tavor, Katz and

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Franklin to include the teachings of Gerace and Dedrick. Recording a customer's direct interaction, including the customer's voice and physical actions, the e-commerce site would be informed of the mood of the customer thereby allowing e-commerce site to take into account the customer's mood during negotiations.

### **Conclusion**


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tim Brown whose telephone number is (571) 272-0773. The examiner can normally be reached on Monday - Friday, 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel can be reached on (571) 272-0902. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tim Brown  
Examiner  
Art Unit 1648

tmb

  
Jeffrey A. Smith  
Primary Examiner